

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

**MOTORS LIQUIDATION COMPANY, *et al.*,
f/k/a General Motors Corp., *et al.*
Debtors.**

**Chapter 11 Case No:
09-50026 (REG)
(Jointly Administered)**

**OPPOSITION BY CLAIMANT, ROBERT CRAMER, TO MOTION TO DISALLOW
AND EXPUNGE HIS CLAIM**

NOW COMES Claimant, ROBERT CRAMER, and states the following opposition to the Motion to Disallow and Expunge His Claim.

1. Claimant, Robert Cramer, filed a lawsuit under the Employee Retirement Income Security Act (ERISA), 29 USC § 1001, against three Defendants.
 - a. The employer, General Motors Corporation, was sued for violation of its fiduciary duty under 29 USC § 1132(a)(3). Claimant alleged that the employer failed to inform and/or misrepresented a welfare benefit plan to the detriment of the Plaintiff.
 - b. The General Motors Severance Plan was specifically created by the employer to provide financial inducements to eligible employees to retire. The severance plan was a welfare benefit plan and totally administered by the employer.
 - c. The General Motors Salaried Employees Pension Plan is not involved in this claim and this claim may be disallowed.
2. The objections by the Debtors/GMC Trust are based entirely on the liability of the GM Salaried Pension Plan or the GM Hourly Pension Plan. The Claimant's claims do not involve either plan.

3. The Claimant has a valid legal claim. The Sixth Circuit has specifically stated that an employee may become a participant “where an employer’s breach of fiduciary duty causes the employee to fail to participate in a plan. *Swiney v. General Moor Corp.* 46 F3d 512, 518 (6th Cir. 1995). See, also *Moore v. Lafayette Life Insurance Company*, 458 F3d 416 (6th Cir. 2006).

CONCLUSION

With the exception of the claim against the Salaried Plan, the Motion should be denied as to the remaining claims.

Respectfully submitted,



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Dated: September 19, 2011

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PROOF OF SERVICE

STATE OF MICHIGAN)
)ss:
COUNTY OF WAYNE)

Debbie Damian certifies that on this 19th day of September, 2011, Opposition By claimant, Robert Cramer, to Motion to disallow and Expunge his Claim and Proof of Service were served upon Weil, Gotshal & Manges LLP, attorneys for the GUC Trust, 767 Fifth Avenue, New York, New York 10153 (Attn: Harvey R. Miller, Esq., Stephen Karotkin, Esq., and Joseph H. Smolinsky, Esq.), Motors Liquidation Company, 401 South Old Woodward Avenue, Suite 370, Birmingham, MI 48009 (Attn: Thomas Morrow), General Motors LLC, 400 Renaissance Center, Detroit, MI 48265 (Attn: Lawrence S. Buonomo, Esq), Cadwalader, Wickersham & Taft LLP, attorneys for the United States Department of the Treasury, One World Financial Center, New York, New York 10281 (Attn: John J. Rapisardi, Esq), the United States Department of the Treasury, 1500 Pennsylvania Avenue NW, Room 2312, Washington, DC 20220 (Attn: Joseph Samarias, Esq.), Vedder Price, PC, attorneys for Export Development Canada, 1633 Broadway, 47th Floor, New York, New York 10019 (Attn: Michael J. Edelman, Esq. and Michael L. Schein, Esq.), Kramer Levin Naftalis & Frankel LLP, attorneys for the statutory committee of unsecured creditors, 1177 Avenue of the Americas, New York, New York 10036 (Attn: Thomas Moers Mayer, Esq., Robert Schmidt, Esq., Lauren Macksoud, Esq., and Jennifer Sharret, Esq.), the Office of the United States Trustee for the Southern District of New York, 33 Whithall Street, 21st Floor, New York, New York 10004 (Attn: Tracy Hope Davis, Esq.), the US Attorney's Office, SDNY, 86 Chambers Street, Third Floor, New York, New York 10007 (Attn: David S. Jones, Esq., and Natalie Kuchler, Esq.), Caplin & Drysdale, Chartered, attorneys for the official committee of unsecured creditors holding asbestos-related claims, 375 Park Avenue, 35th Floor, New York, New York 10152-3500 (Attn: Elihu Inselbuch, Esq. and Rita C. Tobin, Esq.), and One Thomas Circle, NW, Suite 1100, Washington DC 20005 (Attn: Trevor W. Swett III, Esq. and Kevin C. Maclay, Esq.), Stutzman, Bromberg, Esserman & Plifka, A Professional Corporation, attorneys for Dean M. Trafelet in his capacity as the legal representative for future asbestos personal injury claimants, 2323 Bryan Street, Suite 2200, Dallas Texas 75201 (Attn: Sander L. Esserman, Esq. and Robert T. Brousseau, Esq.), Gibson, Dunn & Crutcher LLP, attorneys for Wilmington Trust Company as GUC Trust Administrator and for Wilmington Trust

Company as Avoidance Action Trust Administrator, 200 Park Avenue, 47th Floor, New York, New York 10166 (Attn: Keith Martorana, Esq.), FTI Consulting, as the GUC Trust Monitor and as the Avoidance Action Trust Monitor, One Atlantic Center, 1201 West Peachtree Street, Suite 500, Atlanta, Georgia 30309 (Attn: Anna Phillips), Crowell & Moring LLP, attorneys for the Revitalizing Auto Communities Environment Response Trust, 590 Madison Avenue, 19th floor, New York, New York 10022-2524 (Attn: Michael V. Blumenthal, Esq.), and Kirk P. Watson, Esq. as the Asbestos Trust Administrator, 2301 Woodlawn Boulevard, Austin, Texas 78703. I declare under the penalty of perjury that the statement above is true to the best of my knowledge, information and belief.

By: X U.S. Mail Facsimile
 Hand Delivered Overnight Service

DEBBIE DAMIAN